

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**RHONDA TRUJILLO,**

Plaintiff,

v.

**Civ. No. 11-243 ACT/WDS**

**SCOT KEY, 13<sup>TH</sup> JUDICIAL DISTRICT ATTORNEYS OFFICE;  
UNM HOSPITAL,**

Defendant.

**ORDER FOR SERVICE OF PROCESS**

On March 18, 2011, I granted permission for pro-se Plaintiff Rhonda Trujillo to proceed IFP, conditioned on the suggested filing of an amended complaint that complied with 28 U.S.C. § 1915(e)(2)(B). *See* Doc. 4 at 3 (noting the deficiencies in the Complaint and stating that, if Ms. Trujillo did not submit an amended complaint within 14 days of the Order granting IFP, I would recommend dismissal of her complaint without further notice). I also delayed issuing summonses and an order mandating service of free process upon the Defendants until an amended complaint was filed. *See id.* at 2-3. Instead of filing an amended complaint, Ms. Trujillo has filed a motion to amend her Complaint, which purports to comply with the March 18 Order. *See* Doc. 7. Such a motion is unnecessary under Federal Rule of Procedure 15(a)(1) and the Court's March 18 Order, however, and she failed to attach a copy of the Amended Complaint to the Motion<sup>1</sup>. At this stage

---

<sup>1</sup> Because no order of reference has yet been entered in this case under 28 U.S.C. § 636 except as to screening the Complaint under 28 U.S.C. § 1915, I do not have authority to rule on the Motion to Amend. *See Gomez v. United States*, 490 U.S. 858, 864 (1989) (noting that the Federal Magistrates Act both outlines and limits the authority of a magistrate judge to act); *cf. Franke v. ARUP Labs., Inc.*, No. 10-4045, 390 Fed. App'x 822, 828, 2010 WL 3245179, \*5 (10<sup>th</sup> Cir. Aug. 16, 2010) (holding that a "motion to amend was a nondispositive pretrial matter that the magistrate judge was authorized to decide pursuant to 28 U.S.C. § 636(b)(1)(A)").

of the proceedings, Ms. Trujillo should simply file the Amended Complaint. But because Ms. Trujillo has indicated that she is now suing only Scot Key in his individual capacity and she does not indicate that she will be amending any other portion of the Complaint, *see* Doc. 7 at 1, to move this case and the consent process forward, I will order free service of process on Mr. Key of the original Complaint, which will be supplanted by the Amended Complaint when it is filed.

**IT IS THEREFORE ORDERED** that Ms. Trujillo shall file her Amended Complaint within twenty days of the filing of this Order;

**IT IS FURTHER ORDERED** that the U.S. Marshal is directed to service the summons and Complaint personally on Scot Key as directed by the Clerk.



---

**UNITED STATES MAGISTRATE JUDGE**